



Washington State Department of Ecology

and

State of Oregon Department of Environmental Quality



February 12, 2003

Mr. James Connaughton
Executive Office of the President
Council on Environmental Quality
730 Jackson Place NW
Washington, D.C. 20503

Dear Mr. Connaughton:

We are writing to strongly support EPA's continued involvement in development of a TMDL for temperature on the Columbia River. We believe that the TMDL is required to comply with the federal Clean Water Act, is a high priority to assure that appropriate steps are taken to achieve and maintain good water quality, and will establish a timely foundation for related water quality efforts. EPA's involvement is critical to the success of this collaborative effort.

The States and EPA have pledged to work cooperatively to ensure that improvements to water quality are realized despite the jurisdictional complexity surrounding this river. The States agreed to take the lead on total dissolved gas TMDLs, and asked EPA to lead development of the temperature TMDL in collaboration with the states. It is critically important that EPA continue in its efforts relating to temperature. EPA has technical expertise needed for the project. We have focused much of our limited resources in other areas as a result of the agreement. Further, we believe that this is an excellent role for EPA to play on one of the nation's largest interstate waters subject to multiple state and tribal jurisdictions.

Development of TMDLs is not optional for either of our States. We are both operating under federal Court consent decrees and schedules. Not only would the removal of EPA from this effort severely compromise our mandated schedules, but we would still have to develop and promulgate TMDLs for temperature on the Columbia River. EPA's current involvement means that State variations in water quality standards and approaches to TMDLs are being harmonized. Without the leadership and assistance from EPA, our states could, of course resolve these kinds of differences, but may well be constrained by pressures to meet our individual Court schedules, and to reallocate resources from and to other TMDLs that are currently under development or waiting in the wings. Certainly, if EPA were to be removed from this effort, we would find it difficult to begin the process anew. Most likely we would take the effort completed to date and attempt to move it forward.

This TMDL is a high priority for the states. In Washington, several privately owned dams will shortly apply for new FERC licenses; the TMDL will help establish the foundation for water quality certifications by the states and for TMDLs on tributary streams.

For our part, we have the responsibility to develop an implementation plan to accompany this TMDL. In other TMDLs we have always worked collaboratively with sources to produce these plans, and we will do so here. We have already had preliminary discussions with the federal

action agencies, and we are looking forward to setting up a forum in which this plan can be developed. We do note that the federal agencies have been invited to all the meetings over the past three years in the development of this TMDL, and have not participated as actively as perhaps they could have.

We understand that the federal agencies are seeking a degree of certainty in the implementation plan, and our states will work together to provide it. This includes ensuring that our states and EPA have the same understanding regarding how dams factor into TMDLs. We have already committed to explaining in the plan a process by which water quality standards may be reviewed and/or a use attainability analysis can be conducted. We are also exploring a post-TMDL coordinating structure to monitor and evaluate efforts to implement the TMDL and make any necessary recommendations for changes.

We understand that the federal action agencies have concerns about the relationship of the Clean Water Act to other federal mandates that apply to their activities that may limit their options. The Clean Water Act and subsequent Court interpretations require all entities, including federal agencies, to meet water quality standards. However, the Act has mechanisms built in to provide for circumstances in which this is impossible due to irreversible human impacts or natural conditions. We hope that the action agencies will join with the States and EPA to conclude this important regional TMDL and integrate it with the other Columbia River planning efforts, so that we can all look forward to a fully functioning hydropower system, supported beneficial uses, and improvement in water quality.

You should also know that there has been a change in administration in Oregon. DEQ's Director intends to discuss the policy implications of the operation of the federal hydropower system with the Governor's Natural Resource staff to have a better appreciation of the new administration's viewpoints on the issues inherent in the TMDL.

This has been an exemplary partnership between the federal government and States to date. We hope that it will continue to an expeditious conclusion, and set a model for the rest of the nation.

Sincerely,



Stephanie Hallock
Oregon DEQ, Director



Tom Fitzsimmons, Director
Washington Department of Ecology

cc: David E. Vant Hof, Oregon Governor's Office
Ron Shultz, Washington Governor's Office
John Iani, Regional Administrator, EPA Region 10
Mike White, CORPS of Engineers
Ken Pedde, US Bureau of Reclamation